



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

SURGERY SPECIALTY HOSPITALS OF AMERICA
4301 VISTA ROAD
PASADENA TX 77504

DWC Claim #:
Injured Employee:
Date of Injury:
Employer Name
Insurance Carrier #:

Respondent Name

INSURANCE CO OF THE STATE OF PA

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-10-2322-01

MFDR Date Received

DECEMBER 30, 2009

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "It is unclear from the Explanation of Benefits what methodology Carrier used to calculate reimbursement, but because Provider did not request that the implantables be paid separately, Carrier should have reimbursed Provider pursuant to section 134.403(f)(1)(A). Carrier has severely under-reimbursed Provider by either applying the inappropriate reimbursement methodology or inappropriately calculating reimbursement under the applicable rule."

Amount in Dispute: \$5,180.31

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The requestor states that the carrier took a PPO discount when there is no PPO contract between the carrier and Surgery Specialty Hospital. There is in fact a PPO contract with First Health (Now Coventry). We paid per the PPO contract and no additional monies are due the Surgery Specialty Hospital for this date of service."

Response Submitted by: CHARTIS, 4100 Alpha Rd., Ste. 700, Dallas, TX 75244

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
January 13, 2009	Outpatient Hospital Services	\$5,180.31	\$5,180.31

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.

3. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, sets out the reimbursement for guidelines for professional medical services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
Explanation of benefits dated February 20, 2009 and October 7, 2009:
 - 1 (97) – Payment is included in the allowance for another service/procedure.
 - 2 (45) – Charges exceed your contracted/legislated fee arrangement.
 - 3 (W1) – Workers Compensation State Fee Schedule adjustment.
 - 4 (59) – Processed based on multiple or concurrent procedure rules.
 - 5 (96) – Non-covered charge(s).
 - * - This bill was reviewed in accordance with your fee for service contract with First Health.
 - * - Our position remains the same if you disagree with our decision please contact the TWCC Medical Dispute Resolution.

Issues

1. Did the respondent support the insurance carrier's reasons for reduction or denial of services?
2. What is the applicable rule for determining reimbursement for the disputed services?
3. What is the recommended payment amount for the services in dispute?
4. Is the requestor entitled to reimbursement?

Findings

1. The Division requested the respondent to provide a copy of the applicable contract and documentation to support notification to the requestor in accordance with 28 Texas Administrative Code §133.4, pursuant to §133.307(e)(1) which states that "The Division may request additional information from either party to review the medical fee issues in dispute. The additional information must be received by the Division no later than 14 days after receipt of this request." The respondent did not submit copies of the requested contract(s) or otherwise respond to the MFDR request for additional information. These reason codes are not supported. Pursuant to Texas Labor Code §413.011(d-3), which states, in pertinent part, that "the insurance carrier may be required to pay fees in accordance with the division's fee guidelines if the contract:(1) is not provided in a timely manner to the division on the division's request," the disputed services will be reviewed for payment in accordance with applicable Division rules and fee guidelines.
2. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 200 percent, unless a facility or surgical implant provider requests separate reimbursement of implantables. Review of the submitted documentation finds that separate reimbursement for implantables was not requested.
3. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published annually in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:
 - Procedure code J3490 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
 - Procedure code A4649 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
 - Procedure code A4649 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
 - Procedure code 29826 has a status indicator of T, which denotes a significant procedure subject to multiple procedure discounting. The highest paying status T APC is paid at 100%; all others are paid at 50%. This

procedure is paid at 100%. This service is classified under APC 0042, which, per OPPS Addendum A, has a payment rate of \$3,251.11. This amount multiplied by 60% yields an unadjusted labor-related amount of \$1,950.67. This amount multiplied by the annual wage index for this facility of 0.989 yields an adjusted labor-related amount of \$1,929.21. The non-labor related portion is 40% of the APC rate or \$1,300.44. The sum of the labor and non-labor related amounts is \$3,229.65. If the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$1,800, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.298. This ratio multiplied by the billed charge of \$3,047.50 yields a cost of \$908.16. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for this service of \$3,229.65 divided by the sum of all APC payments is 66.16%. The sum of all packaged costs is \$9,603.94. The allocated portion of packaged costs is \$6,354.19. This amount added to the service cost yields a total cost of \$7,262.35. The cost of this service exceeds the annual fixed-dollar threshold of \$1,800. The amount by which the cost exceeds 1.75 times the OPPS payment is \$1,610.45. 50% of this amount is \$805.23. The total APC payment for this service, including outliers and any multiple procedure discount, is \$4,034.88. This amount multiplied by 200% yields a MAR of \$8,069.76.

- Procedure code 29827 has a status indicator of T, which denotes a significant procedure subject to multiple procedure discounting. The highest paying status T APC is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. This service is classified under APC 0042, which, per OPPS Addendum A, has a payment rate of \$3,251.11. This amount multiplied by 60% yields an unadjusted labor-related amount of \$1,950.67. This amount multiplied by the annual wage index for this facility of 0.989 yields an adjusted labor-related amount of \$1,929.21. The non-labor related portion is 40% of the APC rate or \$1,300.44. The sum of the labor and non-labor related amounts is \$3,229.65. If the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$1,800, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.298. This ratio multiplied by the billed charge of \$3,047.50 yields a cost of \$908.16. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for this service of \$1,614.83 divided by the sum of all APC payments is 33.08%. The sum of all packaged costs is \$9,603.94. The allocated portion of packaged costs is \$3,177.10. This amount added to the service cost yields a total cost of \$4,085.25. The cost of this service exceeds the annual fixed-dollar threshold of \$1,800. The amount by which the cost exceeds 1.75 times the OPPS payment is \$1,259.30. 50% of this amount is \$629.65. The total APC payment for this service, including outliers and any multiple procedure discount, is \$2,244.48. This amount multiplied by 200% yields a MAR of \$4,488.96.
- Procedure code 94799 has a status indicator of X, which denotes ancillary services paid under OPPS with separate APC payment. This service is classified under APC 0367, which, per OPPS Addendum A, has a payment rate of \$37.17. This amount multiplied by 60% yields an unadjusted labor-related amount of \$22.30. This amount multiplied by the annual wage index for this facility of 0.989 yields an adjusted labor-related amount of \$22.06. The non-labor related portion is 40% of the APC rate or \$14.87. The sum of the labor and non-labor related amounts is \$36.92. The cost of this service does not exceed the annual fixed-dollar threshold of \$1,800. The outlier payment amount is \$0. The total APC payment for this service, including outliers, is \$36.92. This amount multiplied by 200% yields a MAR of \$73.85.

4. The total recommended payment for the services in dispute is \$12,832.47. This amount less the amount previously paid by the insurance carrier of \$4,571.25 leaves an amount due to the requestor of \$8,061.32. The requestor is seeking \$5,180.31. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$5,180.31.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$5,180.31 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

August 16, 2012
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.